

REMARKS

This responds to the Final Office Action mailed November 30, 2005, and the Advisory Action mailed February 16, 2006.

Claims 1, 7, 14, 16, and 21 are amended; as a result, claims 1-26 are now pending in this application. This amendment and response is accompanied with a Request for Continued Examination (RCE); therefore these amendments are appropriate and should be entered.

Claim Objections

Claim 16 was objected to because of informalities. The typographical error in claim 16 has been changed from “if” to “is;” accordingly, Applicants believe that this rejection has been overcome and is no longer appropriate.

§112 Rejection of the Claims

Claims 1, 7, 14 and 21 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Although Applicants disagree with the Examiner’s characterization of the use of the term “directly,” this term has been removed from the independent claims. Thus, the rejections are no longer appropriate and should be withdrawn.

§102 and §103 Rejection of the Claims

Applicants would again like to reiterate that the Ji reference is directed to techniques for locally scanning viruses at a sender or recipient’s location. Conversely, the Mitty reference is directed to techniques for remote scanning email sent received by an intermediate from a sender, but not received by the intermediary from a recipient. The amendments above now make clear that scanning occurs remote from a recipient and at the direction or in response to being sent from the recipient and not from the sender.

Applicants do not believe that this is obvious in view of Ji and Mitty because in order for it to be obvious there must be a teaching or a suggestion of a teaching in the combined references that show a remote third party scanning an email that was sent from a recipient of that email. This cannot be shown because the references do not teach such an arrangement; therefore it

cannot be said that the combination renders Applicants' amended claims obvious because the combination lacks these limitations and this scenario.

Furthermore, Applicants' prior response enumerated in detail why the arrangement chosen by the Applicants is different and more beneficial than that which is taught in Mitty. Accordingly, the remarks and arguments presented in the Response to Final are again incorporated by reference herein.

Applicants respectfully assert that the application is now in condition for allowance and that the present rejections of record are no longer appropriate. Applicants also note that the Examiner indicated in the Advisory that the amendments would not be entered and that a new search would be required.

Accordingly, irrespective as to whether the Examiner believes the prior amendments (not entered and since modified by the above) were insufficient to overcome an obviousness rejection; a final is inappropriate and not proper because the MPEP indicates that a final cannot be issued if the Examiner asserts that the a new search is needed. Moreover, the statement in the Advisory is nothing more than a conclusion with no rationale and no argument; accordingly, the Applicants cannot guess as to how the Examiner is interpreting these references to support the conclusory statement listed in the Advisory.

Thus, it is improper for a Final to follow this RCE because the Examiner refused to enter the prior amendments on the grounds that they raised new issues and required a new search. Applicants assert that the amendments and remarks do in fact place the application in condition for allowance and respectfully request an indication of the same.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 02/22/06

By Joseph P. Mehrle
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23 day of February, 2006.

Peter Rebuffoni
Name

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Signature